IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

WP(C).No. 17963 of 2007(L)

PETITIONER:

N.SAJI PRAKASH, S/O.R.NARAYANA PILLAI,
AGED 46 YEARS, TYPE-II-A-14, N.P.O.L QUARTERS,
NEAR WIRELESS STATION, PALLURUTHY, KOCHI-6
(ENGINE FITTER HS, N.S.R.Y, NAVAL BASE, KOCHI.

BY ADV. SRI.C.K.SAJEEV

RESPONDENTS:

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1. SPECIAL DEPUTY TAHSILDAR (R.R),
KERALA STATE FINANCIAL ENTERPRISES LTD.,
ERNAKULAM.

2. MANAGER, KERALA STATE FINANCIAL
ENTERPRISES LTD., ERNAKULAM MAIN BRANCH,
ERNAKULAM.

3. PHILOMINA JOHN, W/O.JOHN C.V.,
CHERUPUNNATHIL HOUSE, 28/1040,T
INDIRA NAGAR, KADAVANTHARA, ERNAKULAM

R1 AND R2 BY ADV. SRI.M.K.CHANDRAMOHAN DAS, SC, KSFE, LTD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 17963 OF 2007

Dated this the 10th day of September, 2007

JUDGMENT

Petitioner is admittedly a surety for the loan availed by the third respondent from KSFE. Petitioner's case is that principal debtor has a deposit with KSFE for Rs. 50,000/- and has other assets also. Besides this, another guarantor is not proceeded against is the grievance of the petitioner. Even though creditor can proceed against guarantors simultaneously along with debtor, being a government agency respondents 1 and 2 should proceed against defaulter on equitable ground and only if recovery cannot be possible to proceed against the petitioner. Petitioner can collect information about the assets of the principal debtor and furnish the same to the first respondent. If any assets are available with the defaulter, the same should be attached and sold whether movable or immovable without any delay. Similarly, creditor should not show any discrimination as far as recovery is concerned. There will be direction to respondents 1 and 2 to proceed against other guarantors also for recovery. W.P. is disposed of directing respondents 1 and 2 to proceed against principal debtor first

and thereafter against guarantors including the petitioner. First respondent will attach and sell movables and immovables of the third respondent without any delay.

(C.N.RAMACHANDRAN NAIR)
Judge